IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4145 of 1987

For Approval and Signature:

HON'BLE DR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHANDRAKANT RATILAL JADAV
SINCE DECEASED AND HIS LEGAL
AND LEGAL REPRESENTATIVES
Versus
STATE OF GUJARAT AND ORS.

Appearance:
1. Special Civil Application No. 4145 of 1987
MR KV SHELAT for Petitioner No. 1-1/2
MR LB DABHI, AGP for Respondent Nos. 1-2

CORAM : HON'BLE DR.JUSTICE J.N.BHATT

Date of decision: 24/08/2004

ORAL JUDGEMENT

1. The original petitioner, initially, filed this petition, questioning the suspension order passed during the pendency of a deparmental inquiry. During the

pendency of the petition, whereas, on the petitioner's passing away, his legal heirs and representatives of the deceased original-petitioner came to be impleaded as party-petitioners, and the departmental inquiry initiated against the original-petitioner came to be concluded. Therefore, the original-petitioner has, finally, questioned his order of dismissal from the service on the ground of proved misbehaviour and misconduct, due to misappropriation of government funds and dereliction in his duties, as House-Master (Gruhpati) of Shri Parishitlal Majmudar Boys Hostel, Surat.

2. During the tenure of his service as a House-Master, he was charge-sheeted on the allegation of irregularities in maintenance of accounts, negligence, dereliction in his duties and misappropriation. Before proceeding with the departmental inquiry, he was placed under suspension vide order dated 08-05-1981. Upon the service of charge-sheet, the petitioner gave a detailed reply and tried to throw the burden on the Warden, respondent No.2.

3. A Special Inquiry Officer, respondent No.3, was appointed and he conducted the departmental inquiry against both, the petitioner and the Warden, respondent No.2. After recording the evidence and giving an opportunity of hearing to the parties, the Inquiry Officer submitted his report. The Disciplinary Authority issued show-cause notice to the petitioner, initially, for reversion and thereafter, for the dismissal. After giving an opportunity and considering the reply, the Disciplinary Authority passed the order of dismissal from the Social Welfare Department of the State of Gujarat on 31-05-1988 on the ground of proved misbehaviour, misconduct, dereliction of duty and misappropriation.

4. Upon consideration of the facts and the evidence against the petitioner, the Inquiry Officer found him delinquent, guilty of the charges. The Displinary Authority, respondent No.1, finding an agreement with the Inquiry Officer's report, initially, issued a show-cause notice for reversion from the service, which is also a major penalty under Rule 6 of the Gujarat Civil Services (Disciplinary and Appeal) Rules, 1971 ("Rules", for short). Later on reviewing, it was found that there was a grave and serious charge of misappropriation and, therefore, second fresh notice of dismissal was also served.

5. It is found from the evidence and the record that it was the duty of the petitioner to supervise and look

after the maintenance of accounts and to ensure that Cash-Book is maintained properly and all transactions are entered correctly, as per the Gujarat Financial Rules. During the absence of the Warden, who was on leave, the petitioner was responsible and in-charge of the said office and functioning, including the accounts. It is in this context, the Inquiry Officer found the petitioner guilty and delinquent of charges of negligence and dereliction in his duties and misappropriation of government funds from evidence. It is, also, clear from the record that the charges are held proved by the Inquiry Officer in his report and the Disciplinary Authority agreed in accepting the report of the Inquiry Officer.

6. Nothing has been successfully shown from the record that the order of dismissal dated 31-05-1988 and finally, the question in this writ petition voiced by the original petitioner is, in any way, perverse,illegal or without any evidence. It is not the quality of the decision but the decision-making process that is the concern of the Court. If decision-making process is not in any way affected or influenced by any extraneous consideration and if the principles of natural justice, fair play, reasonableness and rationality are observed, the Writ Court cannot reappreciate the evidence and the ultimate conclusion based on facts and evidence. This Court does not sit as an Appellate Authority when the domestic Tribunal proceedings are conducted in a defined and prescribed parameters and when celebrated principles of natural justice are observed. This Court cannot interfere even if different perception or possible view is likely to be taken by reading the evidence or the material on record. Thus, the jurisdictional sweep and scope of the Writ Court is very much circumscribed.

7. Nothing has been, successfully, spelt out or even pointed out which would even remotely warrant the interference of this Court, even in the realm of proportionality of sentence in view of the grave and serious nature of proved charges against the petitioner. The petition, therefore, deserves to be rejected. Accordingly, it is rejected. Rule discharged. No costs.

(J. N. BHATT, J.)
/shamnath